

अण्डमान तथा
Andaman And



निकोबार राजपत्र
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No. 250, Port Blair, Tuesday, November 1, 2011

अण्डमान तथा निकोबार प्रशासन
ANDAMAN AND NICOBAR ADMINISTRATION
सचिवालय/SECRETARIAT

NOTIFICATION

Port Blair, dated the 1st November, 2011

No. 239/2011/F.No.3-259/2001-Labour.— In pursuance of Sub-Section (1) of Section 17 of the Industrial Disputes Act, 1947 (Act No. 14 of 1947) read with Notification No. LR-1 (59)/55 dated 13th December, 1955 of the Govt. of India, Ministry of Labour and A & N Admn. Notification No.144/2008/F. No. 17-2/2007-Labour dated 7/10/2008, the Secretary (Lab.), Andaman and Nicobar Administration, hereby orders for publishing the following Award given by the Labour Court, Andaman and Nicobar Islands, Port Blair against the reference made to the Industrial Tribunal for adjudication vide Administration's Notification No. 3-259/2001-Labour dated 02/08/2001 in the matter of an Industrial Dispute between Deputy Conservator of Forests, Wildlife Division, Port Blair and its workman represented by Secretary, Andaman and Nicobar Wild Life Workers Union over the issue of violation of Govt. of India's policy for extending the pay benefit to the workers.

THE COURT OF THE PRESIDING OFFICER
LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS, PORT BLAIR

I.D. No. 03/2001

PRESENT : SHRI SIDDHARTHA CHATTOPADHYAY
JUDGE, LABOUR COURT
ANDAMAN AND NICOBAR ISLANDS
PORT BLAIR

Shri P. Tata Rao
46 Others

..... First Party

– Versus –

Wildlife Division
Deputy Conservator of Forests
Port Blair.

..... Second Party

Delivery date of judgment: 30/08/2011

JUDGEMENT

The present schedule reference was made to this Tribunal by the Lieutenant Governor in exercise of the powers conferred under Sub-Section (1) of Section 10 read with Sub-Section (5) of Section 12 of Industrial Disputes Act, 1947 read with Notification No. LR-1 (59)/55 dated 13.12.55 to adjudicate the following issues :-

- 1) Whether the demand of 47 Daily Rated Mazdoors represented by the Secretary Andaman and Nicobar, Wild Life Workers Union, Port Blair to the Deputy Conservator of Forests (Wild Life) for extending the pay benefit to the in accordance with the Government of India, Department of Personnel and Training OM No. 49014/2/86-Estt(e) dated 07/06/86 at the rate 1/30th of the pay plus dearness allowance for days work of eight hours at the minimum of the same nature of work is legal and justified ?
- 2) If so, what relief the concerned workmen are entitled to ?

After the reference is received, this Tribunal has sent notices to both sides. In response to the notices, the parties appeared before this Tribunal with their respective statements.

The case of the 1st Party workmen in a capsulated form is such that the petitioner (47 in numbers) were engaged continuously on daily rated basis and had been getting minimum of wages time to time. On the basis of the judgement of Hon'ble Apex Court (passed in c/w) WP No. 59-60 and 563-70/83 dated 17/01/86 they are entitled to get 1/30th of the minimum pay scale plus other allowance as are entitled to by the regular employees working on posts of similar nature. To give an effect to the direction of the aforesaid judgement A & N Administration had also issued circular vide No. 69-13/88 H&R dated 19.7.88 in line with the Memorandum of the Govt. of India vide No. F. 49014/2/86-Estt(e) of Ministry of Personnel and Training.

To get the benefit of said circulars, the petitioners individually approached the 2nd Party, but it received a cold reception. Thereafter conciliation proceeding was held but it was proved abortive. In such circumstances, reference was made. They prayed for equal wages for equal work.

The 2nd Party contested the case by filling written statement in which they categorically denied all the material allegations splashed against them. According to them the doctrine of equal pay for equal work is not an abstract doctrine. Various relevant factors are also to be taken into consideration. They also added that the method of recruitment, qualification etc. can not be lost sight of finally, they contended that the Regular Mazdoor's wages are fixed by the Central Govt. and the said workmen are to subscribe GPF and Central Govt. Group Insurance Scheme, which is not essential for the DRMs. As the Regular Mazdoors and DRMs are governed by different set of rules, so the petitioner's case should be dismissed.

1st Party field rejoinder denying the contention of 2nd Party.

DECISION WITH REASONS

To substantiate the claim, Mr. K.R. Pandi deposed on behalf of 1st Party workmen. In his affidavit in chief he has narrated the grievance in such way as if it is the replica of statements of demands. In course of cross examination, 2nd Party workmen failed to elicit anything which could help the 2nd Party. At the time of argument, 1st Party workmen referred to a decision passed in connection with Industrial Disputes (L.C.) case No. 4/97 by my Ld. Predecessor in office, which was based on the judgement of Hon'ble Apex Court (passed in C / W WP 59/60 and 563-70/83 dated 17.1.86).

The Hon'ble Circuit Bench, in another case bearing No. WP (AN) 004/01 observed "Therefore, it appears that the petitioners are entitled to get the pay considering the pay scale available to the post they are working".

2nd Party wanted to assail the submission of 1st Party by referring some judgements. But those judgements do not fit in this case. They also wanted to say that the service condition and responsibility of DRM and Regular Posts are different.

After hearing the argument of both sides, I find that the grievance of the 1st Party is justified. But a Court of Law can not be obvious to the mandate of our constitution 'equality before the law'. Mere acceptance to do the job on condition that they will not be paid salary, as has been getting by the regular employees, who are rendering similar job, does not take away their constitutional right. The Administration cannot treat it as an escape route. Depriving these employees by wearing this technical 'cloak' is neither acceptable nor justified. A welfare state cannot do that. Therefore, I am of the view that these 47 workmen are also entitled to get wages at the rate of 1/30th of the pay at the minimum of relevant pay scale.

Hence, it is.

AWARDED

That the 1st Party workmen are entitled to wages at the rate of 1/30th of the pay at the minimum of relevant pay scale for work of 8 hours of a day with effect from the date of their engagement.

Let this award be forwarded to Lieutenant Governor, Andaman and Nicobar Islands, for his information and publication in Official Gazette.

Dictated and corrected by me.

Sd./-
(Siddhartha Chattopadhyay)
Presiding Officer,
Labour Court.

By order of the Secretary (Labour),

Sd./-
(Asiya Bibi)
Assistant Secretary (Labour)